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Attorney for Defendant, Domino's Pizza LLC.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JARELL SHABAZZ MARTIN,)	Case No: 2:22-cv-00784-GMN-DJA
)	
Plaintiff,)	MOTION FOR EXEMPTION
)	FROM ENE PROGRAM
vs.)	
)	
DOMINOS PIZZA;)	
)	
Defendant.)	
_____)	

Defendant, Domino's Pizza LLC (named in the Complaint as "Dominos Pizza"), hereby moves this Court, pursuant to the Order Scheduling Early Neutral Evaluation (ECF No. 10) and LR 16-6(c), for an order exempting this case from the Early Neutral Evaluation program.

This Motion is based on the records, pleadings and papers on file herein, together with the following Memorandum of Points and Authorities.

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MEMORANDUM OF POINTS AND AUTHORITIES

Pending before the Court is Defendant's Motion to Compel Arbitration and Stay or Dismiss Proceeding (ECF No. 9). Defendant does not want any participation in an ENE to be deemed a waiver of its right to proceed with arbitration.¹

Further, there are reasons to believe an ENE would be a futile waste of time and resources. Plaintiff has demanded \$2,552,000 in damages² and displayed animosity toward Defendant and its representatives in the past, including recently objecting to a routine request for an extension of time in this litigation, which the Magistrate Judge regarded as based on a "desire to get back at Defendant."³

For the reasons set forth above, Domino's respectfully requests that this case be exempted from the ENE program and that the pending ENE be vacated.

Respectfully submitted,

FISHER & PHILLIPS, LLP

By: /s/ Scott M. Mahoney, Esq.

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Attorneys for Defendant

ORDER

IT IS ORDERED that ECF No. 11 is GRANTED.

IT IS FURTHER ORDERED that the pre-ENE Telephonic Conference set for 11/16/2022 and the ENE set for 11/17/2022 are VACATED.

IT IS SO ORDERED

DATED: 10:26 am, September 26, 2022



BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

¹ See, *Morgan v. Sundance, Inc.*, 142 S.Ct. 1708 (2022) (litigating a case and then seeking arbitration could constitute a waiver of the right to arbitrate regardless of prejudice to the other side).

² See, Complaint for Employment Discrimination (ECF No. 1), § V, p. 6 of 6.

³ See, ECF No. 8, p. 2.

CERTIFICATE OF ELECTRONIC SERVICE

This is to certify that on the 21st day of September 2022, the undersigned, an employee of Fisher & Phillips LLP, electronically filed the foregoing Motion for Exemption from ENE Program with the United States District Court, and a copy was electronically transmitted from the court to the e-mail address on file and via U.S. Postal Service for:

Jarell Shabazz Martin
5250 Stewart Ave. Apt. 1072
Las Vegas, NV 89110
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By: /s/ Sarah Griffin
An employee of Fisher & Phillips LLP

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